

Protection Order Committee
Judicial Conference of Indiana

Minutes

January 30, 2015

The Protection Order Committee met at the Indiana Judicial Center on Friday, January 30, 2015 from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Barbara L. Cook Crawford, Jennifer Lynne DeGroote, Matthew B. Gruett, Thomas P. Hallett, Valeri Haughton, J. David Holt, Justin H. Hunter, Marcia Moore, Robert Ross and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Angela Joseph, Tom Jones, Ruth Reichard and Jeff Wiese provided the committee with staff assistance.
3. Guest. Clerk Marcia R. Moore, Hancock County, also attended the meeting.
4. Minutes approved. The minutes for the meeting on August 22, 2014 were approved.
5. Chapter 9 Modification. Judge Chidester reviewed a proposed form petition for renewal of a protection order, PO-0116. Committee members agreed to add the new form as revised. Judge Chidester agreed to revise Chapter 9, Modifications, for the next meeting of the committee.
6. Various questions.
 - a. Clerk Lantz asked:
 - (1) Whether additional information could be gathered on the confidential form for the Petitioner in a protection order proceeding, similar to information collected for the Respondent. This would help law enforcement officers to identify the petitioner. Ruth Reichard agreed to contact the ICADV to get their input on additional identifying information on the confidential form.
 - (2) Why the Protection Order Registry does not permit some additional confidentiality for juveniles. Jeff Bercovitz indicated a memo was sent to all courts on this topic which was attached to the August minutes. Committee members agreed this memorandum should be sent to Clerks. He agreed to see if the Division of State Court Administration could forward the memorandum to all Clerks.
 - (3) Why “other” was not available in the relationship category for protection orders. Committee members indicated categories on the protection order registry includes those issued against a family member, or a person who committed stalking against the protected party, or a person who committed a sexual assault against a protected party. Ruth Reichard agreed to give this information to LaJuan to report back to Clerk Lantz.
 - b. A victim advocate asked why the petition for a protection order asks only for indicating the relationship which “best applies” rather than all which apply. Magistrate DeGroote agreed to prepare revisions to the petition to correct this concern.

- e. A question was posed concerning a 10 day No Contact Order. Committee members were unsure of the question and agreed to ask LaJuan Epperson to come to the next meeting of the committee to give more information about this issue.
 - f. The cover sheet describes the relationship between parties in a protection order case as “Relationship to Petitioner/Protected Person” but the registry uses the wording, “Relationship between the Petitioner/Protected Person.” Committee members agreed to ask LaJuan Epperson to come to the next meeting of the committee to give more information about this issue.
 - g. Jeff Bercovitz distributed a letter dated Nov. 3, 2014 from the U.S. Department of Justice/Bureau of Alcohol, Tobacco, & Firearms, concerning the effect of Indiana’s expungement statute on federal firearms laws. Committee members agreed this letter should be given to the Division of State Court Administration to determine its effect, if any, on their expungement forms and forward it to the Criminal Benchbook Committee.
7. Power of Attorney for Petition for PO – Chapter 1. Judge Hunter reviewed **Simmons v. Carter**, 576 N.E.2d 1278, 1280 (Ind. Ct. App. 1991) and revised Chapter 1, Getting Started/Jurisdiction/Service. He provided the committee with draft language to revise the chapter concerning the use of a Power of Attorney to file a petition for a Protection Order. The committee revised the proposed language and agreed to include it in Chapter 1.
8. Chapter 2 - Clerks
- a. Ruth Reichard provided proposed language for Chapter 2 indicating the federal law which requires courts to accept the filing of protection orders and service without a fee, including protection orders from other states, which was approved by the committee.
 - b. Ruth Reichard provided proposed language about the dismissal of protection order petitions and setting them for a hearing before doing so. Committee members discussed their practices when protection order petitions are filed, including how quickly they are reviewed, whether the petitioner waits for the judicial review before leaving and times during the court day when the petitions are brought to them. Ruth Reichard agreed to revise her proposed language. Committee members discussed whether this language should be in Chapter 1, and agreed if moved from Chapter 2, a note to Clerks in Chapter 2 about this area should remain.
 - c. Magistrate Hallett agreed to review forms PO-0109 and PO-0110 to provide courts with the appropriate choices if the petition is filed and later dismissed by the court.
 - d. They both agreed to bring these revisions to the February meeting of the committee for review.
9. Other
- a. Ruth Reichard introduced Angela Joseph, an attorney at the Division of State Court Administration, who works on language access issues and the certified court interpreter program. Angela Joseph and Ruth Reichard discussed plans to seek monies for translation of the protection order petition and protection, no contact and workplace violence restraining orders into Spanish.
 - b. Angela also mentioned the availability of the language hotline for use by Indiana’s Clerks.

c. Ruth Reichard agreed to ask the committee at their next meeting if they were interested in her development of materials for compliance hearings in selected and difficult protection order cases.

d. Committee members agreed to look at revising the protection order forms to prohibit the use of smart phone apps and other electronic media for harassment and for tracking at the next meeting.

10. Next meeting dates. Committee members agreed to meet again on Friday, February 27, 2015 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center. They also agreed to meet again on March 27, June 26 August 28, and October 23, 2015 from 12:00 Noon – 3:30 p.m. at the Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes

February 27, 2015

The Protection Order Committee met at the Indiana Judicial Center on Friday, February 27, 2015 from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Jennifer Lynne DeGroote, Thomas P. Hallett, J. David Holt, Justin H. Hunter, Robert Ross and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones, LaJuan Epperson, and Ruth Reichard provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on January 30, 2015 were approved.
4. Chapter 9 Modification/Extension.
 - a. Judge Chidester reviewed proposed revisions to Chapter 9, Modifications, Protection Order Deskbook and a form notice of extension for an order of protection. Committee members approved the proposed changes to Chapter 9 and the proposed notice form for extension of an order of protection.
 - b. Judge Chidester agreed to draft an order for a court to use when extending an order for protection, which would not go into the Registry. The order would include the reasons for the extension, reasons for extension beyond 2 years if needed, and reasons for modification if other than the date of the order in accordance with recent case law.
5. Filing/Dismissal of Protection Order Petitions. Ruth Reichard distributed proposed revisions to Chapter 1, Jurisdiction concerning the dismissal of protection order petitions and setting them for a hearing before dismissal. Committee members discussed the draft language. Ruth Reichard agreed to return with revisions in accordance with the committee discussion at the next meeting.
6. PO-0109 and PO-0110. Magistrate Hallett distributed proposed revisions for forms PO-0109, Order Denying Petition For An Order of Protection and PO-0110, Order Dismissing Petition and/or an Order for Protection. The forms were approved by the committee as revised.
7. Relationship on Petition. Magistrate DeGroote prepared draft revisions for the portion of the Protection Order Petition which indicates the petition should check the relationship which “best applies” rather than “all” that apply. Committee members agreed to not change this portion of the petition, but to amend the petition to indicate whether the petitioner has children with the respondent. Magistrate DeGroote agreed to prepare revisions to the petition for the next meeting.

8. Other.
 - a. Jeffrey Bercovitz reported the cover sheet was amended by the committee in June 2014. It describes the relationship “between” the parties in a protection order case rather than “to” the parties. The form itself was only amended in the registry and not on the website. Committee members agreed to change the form on the website to match the registry.
 - b. Committee members noted NCO-108 indicates the person was charged with an offense, but the form is used sometimes when the person was arrested and not yet charged. Committee members agreed to review the form for possible revisions.
9. Next meeting dates. Committee members agreed to meet again on Friday, March 27, 2015 from 12:00 noon – 3:30 p.m. at the Indiana Judicial Center. They also agreed to meet again on June 26 August 28, and October 23, 2015 from 12:00 Noon – 3:30 p.m. at the Judicial Center.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

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Minutes
June 26, 2015

The Protection Order Committee met at the Indiana Judicial Center on Friday, June 26, 2015 from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, Matthew B. Gruett, Thomas P. Hallett, Justin H. Hunter, Robert Ross and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones, and Ruth Reichard provided the committee with staff assistance.
3. Guest present. Clerk Marcia Moore, Hancock County was also present.
4. Minutes approved. The minutes for the meeting on February 27, 2015 were approved.
5. Final Approval of Chapters and Forms.
 - a. The following were reviewed and approved by consensus for distribution in July:
 - Chapter 9 – Modification/Extension/Termination
 - Chapter 2 – Duties of Clerk
 - Cover sheet – Relationship “between” rather than “to” petitioner
 - PO-0109 – Order Dismissing Petition and/or Order for Protection
 - PO-0110 – Order Denying Petition for Order for Protection
 - PO- 0116 – Verified Petition to Extend Order of Protection (new)
 - b. The following were reviewed, revised and approved by consensus for distribution in July:
 - PO - 0132 - Findings and Order Granting Verified Petition for Existing Order of Protection (new)
 - Chapter 1 – Jurisdiction
 - c. NC-0108 was reviewed and no changes were made.
6. Questions.
 - a. A question was raised about potential inclusion of minor children in paragraph #2 of PO-0105, Ex Parte Order, which would only be in paragraph #1 if protected. The Chair agreed to contact Adams County to discuss the concerns raised with their question.
 - b. Questions about the wording of a Protection Order Issued after a Hearing, PO-0113 from Cass County were discussed. Committee members agreed by consensus to wait to review the form until LaJuan Epperson could attend. In addition, the Chair agreed to contact Cass County to clarify the wording concerns for appearance of the Respondent or Petitioner at the hearing and with paragraph 13 about surrendering a weapon.

7. Other.
- a. Ruth Reichard reported on development of forms and procedures for judicial oversight of Protection Orders, including compliance hearings, administration with and without attorneys, form orders, exchange of property. Judge Chidester is assisting. She stated she will bring additional information to the October meeting.
 - b. Jeff Bercovitz distributed information from the Protection Order Registry about the limited use of No Contact Orders in juvenile cases.
 - c. Ruth Reichard stated a recent memorandum distributed to courts about the limited use of initials in protection order cases will be distributed by her and LeJuan Epperson at the Clerk's Association meeting next week.
 - d. Committee members discussed an instance where a prosecutor could not verify the existence of a protection order which was mistakenly sealed by court staff on the Protection Order Registry. Ruth Reichard reported on sealing of protection orders and the need to use the proper procedures under Ind. Code § 5-15-3-5.5 and/or Administrative Rule 9. The Division of State Court Administration is working on a memorandum in this area.
8. Next meeting dates. Committee members agreed to meet again on Friday, August 28, and October 23, 2015 from 12:00 Noon – 3:30 p.m. at the Judicial Center. They also agreed to meet on January 29, 2016, February 26, 2016, and June 24, 2016 all from 12:00 Noon – 3:30 p.m. Indiana Judicial Center. There will be no March 25 meeting because it would be on Good Friday, a state holiday.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

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Minutes

October 23, 2015

The Protection Order Committee met at the Indiana Judicial Center on Friday, October 23, 2015 from 12:00 noon – 3:30 p.m.

1. Members present. David L. Chidester, William A. Dawkins, Jennifer Lynne DeGroote, Sara A. Dungan, Thomas P. Hallett, J. David Holt, Terri J. Rethlake, Robert Ross and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones, and LaJuan Epperson provided the committee with staff assistance.
3. Introduction of new members. Magistrate William A. Dawkins and Magistrate Sara A. Dungan were introduced as new members of the committee.
4. Minutes approved. The minutes for the meeting on June 26, 2015 were approved.
5. Final Approval of Chapters and Forms.
 - a. The following were reviewed and approved by consensus:
 - PO-0109 – Order Dismissing Petition and/or Order for Protection
 - PO-0110 – Order Denying Petition for Order for Protection
 - PO- 0116 – Verified Petition to Extend Order of Protection
 - b. The following was revised and approved by consensus:
 - PO - 0132 - Findings and Order Granting Verified Petition for Existing Order of Protection. Judge Chidester agreed to draft a new form for extension of a protection order when no petition to extend was filed, e.g. this may occur when a scheduled hearing does not occur and parties agree to a continuance of the protection order until the hearing can be held.
6. Presentation by Jennifer Thuma. Jennifer Thuma, Victim Services Office, Indiana Attorney General gave a presentation on the use of HOPE cards in Indiana by Petitioners in Protection Order cases. She explained these cards, the size of a driver's license, may be more convenient to use than a regular protection order. She mentioned changing the card to include a photograph of the Respondent. Committee members stated more input was needed from law enforcement, ICADV, Prosecuting Attorneys Council before courts could participate in this program.
7. Presentation by Mag. DeGroote. Committee members reviewed and revised PO-0100-Petition for Protection Order – Relationship with child; and PO-0101-Petition for Protection Order on Behalf of Child. Magistrate DeGroote agreed to look at instructions for these forms for possible revisions at the next meeting of the committee.

8. Reports.
 - a. Judge Goff reported on follow-up conversations about NCO's in Benton County, an Ex Parte Order in Adams County, and questions about the use of a Protection Order after a hearing in Cass County.
 - b. Jeff Bercovitz reported about the attempt to use a NCO to stay away from a casino.
 - c. Committee members discussed a request to add electronic communications and use of social media prohibition language in protection orders. They agreed this could be added in the "Other" conditions language of PO-0105, PO-113 and PO-123. Members of the committee mentioned a recent U.S. Supreme Court criminal case, **Elonis v. U.S.**, No. 13-983, 575 U.S.____(2015) concerning Facebook threats.
9. Next meeting dates. Committee members agreed to meet again on Friday, January 29, 2016 and also agreed to meet on February 26, 2016, and June 24, 2016 all from 12:00 Noon – 3:30 p.m. Indiana Judicial Center. There will be no March 25 meeting because of Good Friday, a state holiday.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law